

Appendix Exhibit 33

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ERIE DIVISION

ABBY B. CONLEY,	) Docket No. 05-76E
	) (SEAN J. MCLAUGHLIN)
Plaintiff,)
	) ELECTRONICALLY FILED PLEADING
vs.)
	) JURY TRIAL DEMANDED
COUNTY OF ERIE, ERIE COUNTY)
OFFICE OF CHILDREN AND YOUTH,	) AFFIDAVIT OF GERALD J. VILLELLA
a/k/a ERIE COUNTY CHILD WELFARE)
SERVICE, RICHARD SCHENKER,	) Counsel of record for this party:
individually and in his capacity as County)
Executive of Erie County, Pennsylvania,	) Richard A. Lanzillo, Esq.
PETER CALLAN, individually and in his	) Knox McLaughlin Gornall
capacity as Erie County Director of	) & Sennett, P.C.
Personnel, DEBRA LIEBEL, individually	) 120 West 10 th Street
and in her capacity as Executive Director,	) Erie, PA 16501
Erie County Office of Children and Youth,	) Telephone (814) 459-2800
a/k/a Erie County Child Welfare Service	) Facsimile (814) 453-4530
and JOHN A. ONORATO, ESQUIRE,	) Email rlanzillo@kmgslaw.com
individually and in his capacity as Erie	) PA53811
County Solicitor,)
)
Defendants)

AFFIDAVIT OF GERALD J. VILLELLA

Gerald J. Villella, deposes and states as follows:

1. I am an attorney licensed to practice law in the Commonwealth of Pennsylvania. I am engaged in private practice with the offices of Dailey, Karle & Villella, 900 State Street, Suite 310, Erie, Pennsylvania 16501, and I am also employed as an Assistant Solicitor for the City of Erie, Pennsylvania.

2. As of July, 2004, I was engaged to represent the mother of twin infant girls who had been adjudicated dependent based upon the existence of injuries to each child,

including broken bones, which were considered by the Erie County Office of Children and Youth to be signs of possible physical abuse.

3. Counsel for the County of Erie has advised me that for confidentiality reasons, he has denominated this case as the "C Case." For purposes of this affidavit, I shall use the same designation.

4. In advance of a hearing scheduled in the C Case for July 28, 2004, my client contacted me and advised me that Abby Conley, a social service aide for the Office of Children and Youth, had contacted the client and advised the client that she would be willing to provide information that would be helpful to the mother's position.

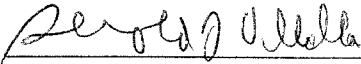
5. My client asked me whether I would contact Ms. Conley to discuss her information. I would have done so, but said I would prefer that Ms. Conley contact me. In my experience, it was common for attorneys to communicate directly with OCY caseworkers and aides as the cases were reviewed periodically for court.

6. Shortly thereafter, Ms. Conley called me by telephone and advised me that she possessed an original draft of a court summary that she had prepared for the C Case in her capacity as a social service aide and that the version in her possession was more favorable to my clients' position than the final court summary that had been submitted to the Court. Conley offered to provide me with the original draft of the summary. She expressed some fear in testifying contrary to her supervisor's position.

7. Immediately prior to the hearing on July 28, 2004, Ms. Conley provided me with the original draft of her court summary in Judge Kelly's courtroom. A copy of Conley's original draft of the summary that Conley provided to me on July 28, 2004 is attached to this

affidavit as Exhibit 1. A copy of the final version of the summary as submitted to the Court is attached to this affidavit as Exhibit 2.

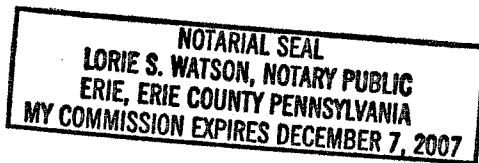
8. I called Ms. Conley on direct examination during the July 28, 2004 hearing to examine her regarding the original version of her court summary. Ms. Conley was cross-examined by Attorney Michael Cauley, Solicitor for the Erie County Office of Children and Youth. A transcript of Ms. Conley's testimony is available.


Gerald J. Villella

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ERIE)

On the 11th day of April, 2006, before me, personally appeared Gerald J. Villella, to me known to be the person named herein, who executed the foregoing Affidavit and acknowledged to me that he has read the foregoing Affidavit, understands the contents thereof and that he voluntarily executed the same.


Notary Public



COUNTY SOCIAL SERVICES AIDE COURT SUMMARY

CHILD: J. [REDACTED] & J. [REDACTED]

PARENT: J. [REDACTED] S. [REDACTED]

REPORT COMPLETED BY: Abby B. Conley

DATE: 04/19/2004

SOCIAL SERVICES AIDE SIGNATURE: _____

REVIEWED AND AFFIRMED BY: _____

Case Supervisor

PURPOSE OF REPORT:

To provide documentation of the observations made during family visits between mother and children.

PERIOD OF INVOLVMENT:

10/2003 to 04/2004

SERVICE OBJECTIVES:

Visits will occur 2 times a week, for one hour duration.

To transport children to visits, observe interactions between both children and their mother.

ACTIONS TAKEN/SERVICES PROVIDED/TYPE OF ACTIVITY:

Children transported, visits supervised, and written documentation provided.

CLIENT PROGRESS OR LACK OF PROGRESS:

Ms. S. [REDACTED] has attended all possible scheduled visits that this social service aide has facilitated. Ms. S. [REDACTED] has been on time for every visit except for one, where she was 5 minutes late due to attending a mandatory hearing.

NEW/CONTINUED AREAS OF NEED:

This social service aide has no concerns or recommendations when it comes to parenting needs in the current or the future, when it pertains to Ms. S[REDACTED], she clearly excels in her parenting abilities.

Although this social service aide's primary responsibility is to supervise visitations between Ms. S[REDACTED] and her twin daughters, Ms. S[REDACTED] has engaged this social service aide in various verbal conversations after visits. During these interactions it is apparent that Ms. S[REDACTED] would benefit from further domestic violence counseling, she admits she is a victim from her past relationship with the children's biological father, Mr. C[REDACTED].

Ms. S[REDACTED] should be encouraged to receive psychological counseling, she has openly admitted that she would not want to continue living if her children are taken away from her permanently.

Ms. S[REDACTED] seems to fluctuate from blaming Mr. C[REDACTED] for the children's original injuries, to declaring it was some kind of accident that the children suffered from. Ms. S[REDACTED] verbalizes confusion and has minimized the expectation of involved professionals that she should have been able to protect the children from injury.

IMPRESSIONS/OBSERVATIONS:

Ms. S[REDACTED] does exceptionally well parenting and interacting with her children during visits. She is consistently involved with both of her twin daughters and equally divides herself between the two of them.

I have also observed Ms. S[REDACTED] has strong maternal characteristics towards her twin girls. This is obvious by her quick response if one or both of the children are doing something that could be potentially harmful or cause injury, Ms. S[REDACTED] is quick to intervene to insure children's safety and well-being.

Ms. S[REDACTED] consoles, plays, laughs, sings, embraces, and shows affection to her daughters during visits. Both girls appear to be strongly bonded with their mother also. Ms. S[REDACTED] will inquire about the children's needs such as clothing, toys and has often volunteered to provide anything that they might need. She has also organized, and succeeded in having Easter pictures completed of her and the twins.

COUNTY SOCIAL SERVICES AIDE COURT SUMMARY

CHILD: J [REDACTED] & J [REDACTED]

PARENT: J [REDACTED] & S [REDACTED]

REPORT COMPLETED BY: Abby B. Conley

DATE: 04/19/2004

SOCIAL SERVICES AIDE SIGNATURE: _____

REVIEWED AND AFFIRMED BY: _____

Case Supervisor

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ACTIONS TAKEN/SERVICES PROVIDED/TYPE OF ACTIVITY:

Children transported, visits supervised, and written documentation provided.

CLIENT PROGRESS OR LACK OF PROGRESS:

Ms. [REDACTED] has attended all possible scheduled visits that this social service aide has facilitated. Ms. [REDACTED] has been on time for every visit except for one, where she was 5 minutes late due to attending a mandatory hearing.

NEW/CONTINUED AREAS OF NEED:

Ms. S [REDACTED] displays appropriate parenting skills during supervised visitations at the Agency.

Although this social service aide's primary responsibility is to supervise visitations between Ms. S [REDACTED] and her twin daughters, Ms. S [REDACTED] has engaged this social service aide in various conversations after visits. During these interactions Ms. S [REDACTED] stated she is a victim of domestic violence from her past relationship with the children's biological father, Mr. C [REDACTED].

Ms. S [REDACTED] should be encouraged to receive psychological counseling as she has openly admitted that she would not want to continue living if her children are taken away from her permanently.

Ms. S [REDACTED] seems to fluctuate from blaming Mr. C [REDACTED] for the children's original injuries, to declaring it was some kind of accident that the children suffered from. Ms. S [REDACTED] verbalizes confusion and has minimized the expectation of involved professionals that she should have been able to protect the children from injury.

IMPRESSIONS/OBSERVATIONS:

Ms. S [REDACTED] does well parenting and interacting with her children during visits. She is consistently involved with both of her twin daughters and equally divides herself between the two of them.

Ms. S [REDACTED] consoles, plays, laughs, sings, embraces, and shows affection to her daughters during visits. Both girls appear to be bonded with their mother also. Ms. S [REDACTED] will inquire about the children's needs such as clothing, toys and has often volunteered to provide anything that they might need. She has also organized, and succeeded in having Easter pictures completed of her and the twins.